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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|----------------------------------------------------------------------------------------------------|-------------|----------------------|---------------------|------------------|
| 10/609,139 | 06/27/2003 | Henry D. Melendez | MEL3074.03A2 | 6731 |
| 8156 | 7590 | 07/14/2004 | EXAMINER | |
| JOHN P. O'BANION O'BANION & RITCHIEY LLP 400 CAPITOL MALL SUITE 1550 SACRAMENTO, CA 95814 | | | BUI, THACH H | |
| | | ART UNIT | PAPER NUMBER | |
| | | 3752 | | |

DATE MAILED: 07/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

| | | |
|------------------------------|-----------------|--------------------|
| Office Action Summary | Application No. | Applicant(s) |
| | 10/609,139 | MELENDEZ, HENRY D. |
| | Examiner | Art Unit |
| | Thach H Bui | 3752 |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-42 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) 1-39 is/are rejected.
- 7) Claim(s) 40-42 is/are objected to.
- 8) Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) All b) Some * c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

| | |
|-----------------------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) Paper No(s)/Mail Date. ____. |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08) Paper No(s)/Mail Date ____. | 6) <input type="checkbox"/> Other: ____. |

DETAILED ACTION

Information Disclosure Statement

1. Applicant's prior art citation filed October 21, 2003 has been received, considered and placed of record.

Claim Objections

2. The numbering of claims is not in accordance with 37 CFR 1.126 which requires the original numbering of the claims to be preserved throughout the prosecution. When claims are canceled, the remaining claims must not be renumbered. When new claims are presented, they must be numbered consecutively beginning with the number next following the highest numbered claims previously presented (whether entered or not).

Claim 9 is missing.

3. Claim 1 is objected to because of the following informalities: "having a least a portion" recited in line 5. Appropriate correction is required.

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

4. Claims 1-4, 10-11, 15-16, 20-22, 27, 31-33, 38 are rejected under 35 U.S.C. 102(b) as being anticipated by Melendez (U.S. Patent No. 5,935,657).

Melendez teaches an apparatus for spraying fluid material comprising a plurality of nozzles (16), a manifold supporting the spray nozzles (14), and a handle (indicated as A) (see Fig. 1) coupled to the manifold wherein the handle has at least a portion positioned at an offset angle (a fixed angle) in relation to a longitudinal axis through the manifold (see Fig. 1). The handle includes a fluid feed tube (58) of which provides a mean fluidically coupled to at least one spray nozzle and also includes an arcuate section (see Fig. 1). The spraying apparatus includes a mean for coupling and decoupling the handle to a source of pressurized fluid by having a tee connector (52). Melendez further teaches a valve body (i.e. anti-sputter valve) coupled to at least one nozzle (68) having an intake port, a central channel, an output port, a valve seat and the biased valve head (see Fig. 2). The valve is configured to allow fluid flow through when the pressure of the fluid exceeds a bias level and preventing fluid flow through when the pressure of the fluid falls below the bias level (col. 4, lines 5-12)

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

5. Claims 5-8, 23-26, 34-37 and 39 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melendez.

Melendez has all the features of the invention (as mentioned above); however, Melendez does not mention specifically a handle coupled to the manifold wherein the handle has at least a portion positioned at an offset angle of which is adjustable and the handle comprises a separable union. Melendez teaches a handle (indicated as A) (see Fig. 1) comprising a connector (52) for connecting the handle to the manifold at an offset angle. It would have been obvious to one skilled artisan in the art to have a swivel adaptor (30) and/or connector to provide an adjustable offset angle for the handle to create different movement for the handle relatively to the manifold. Furthermore, it would have been obvious to one skilled artisan in the art to have made the handle comprising a separable union (at 52) for coupling and decoupling the handle to a source of pressurized fluid.

6. Claims 12-14, 17-19, 28-30 are rejected under 35 U.S.C. 103(a) as being unpatentable over Melendez in view of Etheridge et al. (U.S. Patent No. 4,479,610).

Melendez has all the features of the invention (as mentioned above); however, Melendez failed to teach a mean for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring. Etheridge et al. teach a mean for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring (col. 3, lines 10-13) (see Fig. 4). It would have been obvious to one skilled artisan in the art at the time the invention was made to have a mean for increasing and decreasing the bias level on the valve head by adjusting the screw changing the compression of the spring to allow the right amount of fluid passing through the pipe to the nozzle.

Allowable Subject Matter

7. Claims 40-42 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

8. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Thach H Bui whose telephone number is 703-305-0063. The examiner can normally be reached on Monday-Friday, 7:30-4 p.m.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Michael Mar can be reached on 703-308-2087. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

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Art Unit: 3752

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T.B.
07/10/2004

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SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 3700